



METRO AUTHORITY

2005 ANNUAL REPORT

Department of Labor & Economic Growth
METRO Authority
611 W. Ottawa Street, 4th Floor
P.O. Box 30338
Lansing, Michigan 48909

TABLE OF CONTENTS

EXECUTIVE SUMMARY

<i>Background</i>	3
<i>Year 2005 Summary</i>	5

2004 METRO AUTHORITY ACTIVITIES

<i>I. Invoice Calculations</i>	9
<i>II. Telecommunication Provider Assessments</i>	10
<i>III. Municipality Payments</i>	11
<i>IV. Approved Tax Credits</i>	11
<i>V. Activities Resolved/Under Review</i>	12
<i>A. Route Map/Permit Requirements</i>	12
<i>B. Municipality Permit Fees</i>	14
<i>C. Use of Maintenance Fee Payments Guidelines</i>	16
<i>D. Streamlining Permitting Process</i>	16
<i>E. Municipalities With No Reported Footage</i>	16
<i>F. Possible New Providers</i>	17
<i>G. State/County/Railroad Right-of-Way Issues</i>	18
<i>H. METRO Authority 2005 Policy/Issue Determination</i>	18
<i>I. Matching Fund Advisory</i>	19
<i>J. METRO Authority 2004 Data Base Conversion Project</i>	19
<i>K. METRO Authority Administrative/Operational Needs</i>	20

ATTACHMENTS

<u>Attachment A</u>	<i>General Information</i>
<u>Attachment A1</u>	<i>Annual Report Form</i>
<u>Attachment B</u>	<i>2005 Provider Invoice Information</i>
<u>Attachment C</u>	<i>2005 Payments to Cities and Villages</i>
<u>Attachment D</u>	<i>2005 Payments to Townships</i>
<u>Attachment E</u>	<i>2005 METRO Act Tax Credits</i>
<u>Attachment F</u>	<i>Not Opted-In Municipalities</i>
<u>Attachment G</u>	<i>No Reported Footage</i>
<u>Attachment H</u>	<i>Telecommunication Provider Status</i>
<u>Attachment I</u>	<i>METRO Act Permit 2005 Summary</i>

EXECUTIVE SUMMARY

Background

The METRO Authority was created in November of 2002 as a result of [PA 48](#) with the purpose of streamlining the right-of-way permitting processes between municipalities and telecommunication providers. Historically, providers who were expanding their services into or within municipalities approached each municipality and completed whatever process these municipalities required. Municipalities were not required to have a standard permitting process or fee structure.

PA48 was the result of a collaborative agreement between municipalities and providers. The ACT allows the METRO Authority, on behalf of municipalities, to recover the costs of such right-of-way use by the providers. It gives the METRO Authority the responsibilities to coordinate public right-of-way matters with municipalities, to assess fees on telecommunication providers owning facilities in public rights-of-way within a municipality in a metropolitan area, and to make payments to municipalities that have “opted in.” Currently, 100% of fees assessed on providers are paid out to municipalities. In 2005, fees invoiced and collected from providers exceeded \$23 million.

The goals of the METRO Authority are to:

- Encourage competition in the availability, prices, terms, and other conditions of providing telecommunication services.
- Encourage the introduction of new service, the entry of new providers, the development of new technologies, and increase investment in the telecommunication infrastructure in Michigan.
- Improve the opportunities for economic development and the delivery of telecommunication services;
- Streamline the process for authorizing access to and use of public rights-of-way by telecommunication providers.

- Ensure the reasonable control and management of public rights-of-way by municipalities within Michigan.
- Provide for a common public rights-of-way maintenance fee applicable to telecommunication providers.
- Ensure effective review and disposition of disputes under the Act.
- Allow for a tax credit for providers to recover the costs under the Act (and ensure that providers do not pass costs onto end-users thru rates and charges for telecommunication services).
- Create an Authority (METRO) to coordinate public right-of-way matters with municipalities.

The METRO Authority has prepared this report in compliance with Section 3 of Michigan Public Act 48 of 2002, which requires the METRO Authority to file an annual report of its activities for the preceding year with the Governor and the members of the legislative committees dealing with energy, technology, and telecommunications issues.

Year 2005 Summary

The annual report of the year 2005 activities of the METRO Authority is enclosed. The following provides a summary of some of the more informative aspects of the third year of operation:

A. Reporting of Footage and Access Lines

All providers that have telecommunication facilities in the State of Michigan are required to report to the METRO Authority the following information:

1. Linear footage for each city, village, or township defined as—occupied by the provider regardless of the quantity or type of the provider's facilities utilizing the public right-of-way or whether the facilities are leased to another provider.
2. Total number of owned access lines, including wholesale and retail
3. Total number of linear feet by underground and above ground broken down by city, village and township boundary.
4. Competitive Local Exchange Carriers (CLECs) must report total linear feet in each of the Incumbent Local Exchange Carriers service areas (ILECs).
5. Cable providers may satisfy the fee requirement by certifying that their aggregate investment in Michigan, since January 1, 1996, in facilities capable of providing broadband Internet transport access service exceeds the aggregate amount of the maintenance fees assessed.

All telecommunication providers were required to provide good faith estimates of the above information by March 31, 2004 and were invoiced pro rata for the period November 1, 2003 through March 31, 2004. They were required to true up their information by November 1, 2004 and were either credited for excess payment of their 2004 fees against their 2005 fees, or invoiced if additional fees were due for 2004.

Beginning with the 2004 billing period, providers report new and/or retired footages and access lines to the METRO Authority no later than March 18 of each year. Providers are invoiced based on the information available to the METRO Authority as of that date. In addition, cable companies report their total aggregate investments reported in Michigan.

B. 2005 Maintenance Fee Payments ([Attachment B](#))

- ILECs Invoiced	\$22,085,639	Collected	\$22,086,053
- CLECs Invoiced	\$1,191,663	Collected	\$1,097,525
- Totals Invoiced	\$23,277,302	Collected	\$23,183,578

C. 2005 Payments to Municipalities

- Cities and Villages (Attachment C)	\$17,472,388.71
- Townships (Attachment D)	\$5,836,203.98
- Total Payments	\$23,308,592.69

Note: 2005 payments include funds collected in 2004 after the July distribution, plus any accrued interest.

D. Municipalities Eligible to Receive 2005 METRO Act Funds*

	Total	Eligible for 2005 Funds	Ineligible for 2005 Funds
Cities	271	267	4
Villages	264	232	32
Townships	1,243	1,239	4
Total	1,778	1,738	40

* *Based on municipalities submitting copies to the METRO Authority of their ordinances and/or resolutions conforming with PA 48 requirements prior to the initial December 31, 2003 statutory deadline; and the May 15, 2004 extended deadline.*

[Attachment F](#) illustrates the municipalities that are not currently eligible to receive METRO Act Funds

E. Michigan Public Service Commission

1. Tax Credits Granted to ILECs	\$5,637,882.00
2. Tax Credits Granted to CLECs	\$874,514.54
3. Right-of-Way Permits Received	37
– Unilateral	23
– Bilateral	10
– Approved Permits	33
– Denied Permits	4
– Pending Permits	0

See Attachments [E](#) and [I](#).

F. Proposed Legislation

During 2005 the following legislation to amend the METRO Act was considered:

1. Senate Bill 425 proposed to amend section 11 of the METRO Act to:
 - Change the Provider payment of their state maintenance fee from one annual payment to four quarterly annual payments of 25% of the amount owed.
 - Provide that up to 3% of the annual maintenance fees collected from Telecommunication Providers can be used to fund the operational expenses of the METRO Authority.
 - Provide that the METRO Authority invest maintenance fee payments and that interest earned by used to fund operating expenses and administrative costs of the Authority.

2005

METRO

AUTHORITY

ACTIVITIES

2005 METRO Authority Activities

This report has been prepared pursuant to Section 3 of the METRO Act (PA 48) of 2002.

I. Invoice Calculations

April 1 to March 31 is the annual period covered by each assessment and April 29 the date for payment (Sec 8(2)). Providers are invoiced each April based on the information available as of mid-March of each year. According to Section 8 of PA 48, providers shall pay a fee due to the METRO Authority as follows:

ILECs: the lesser of

- a. \$0.05/linear foot; or
- b. Number of access lines times the statewide per access line per year of the provider with the highest number of access lines in Michigan (SBC Ameritech).

In 2005 SBC Ameritech reported 3,411,784 access lines and 328,715,896 linear feet.

$328,715,896 \text{ linear feet} \times \$0.05 = \$16,435,794.82$

$\$16,435,794.82 \text{ divided by } 3,411,784 \text{ access lines} = \4.8174

Therefore, the 2005 access line rate for ILECs was \$4.8174

CLECs: rate is based on linear foot charge only for each ILEC it resides in:

Each ILEC per linear foot fee times CLECs linear feet in that ILECs territory

Cable Providers:

\$0.01 per linear foot. Cable providers have been asked to report the amount of aggregate investments in Michigan since January 1, 1996, in facilities capable of providing broadband internet transport service. This assessment may be satisfied if the amount of investments certified by the cable provider exceeds the amount assessed.

Because reported investments exceeded assessments in all cases, no cable providers were invoiced in 2005.

II. Telecommunication Provider Assessments

Invoices are typically mailed out on April 1 of each year based on the information provided by each provider and based on SBCs number of access lines. However, because of staff shortages, invoices were mailed out on May 20, 2005, with payment due by June 20, 2005.

The total amount received from providers was deposited into a State of Michigan account, which is used for compensatory payments to those municipalities that have opted in.

Three-Year Comparison of Assessments

	<u>2003</u>	<u>2003 True Ups</u>	<u>2004 *</u>	<u>2005</u>
<i>Incumbent Local Exchange Carriers (ILECs)</i>				
Total number reporting	39	39	39	39
Total linear feet reported	729,552,246	535,676,249	535,780,715	539,094,466
SBC linear feet reported	471,006,789	326,077,193	326,077,193	328,715,896
Total access lines reported	6,449,253	4,736,867	4,736,345	4,585,225
SBC access lines reported	5,300,000	3,603,160	3,603,160	3,411,784
Amount invoiced	\$4,762,053	\$2,418	\$20,221,249	\$22,086,639
<i>Competitive Local Exchange Carriers (CLECs)</i>				
Total number reporting	32	33	34	40
Total linear feet reported	19,806,326	21,093,867	21,515,096	23,333,819
Amount invoiced	\$176,176	\$1,813	\$915,482	\$1,191,663
<i>Cable Companies</i>				
Total number reporting	14	14	14	15
Linear feet reported	256,061,188	263,648,668	264,170,412	267,462,793
Amount invoiced	\$1,483	\$0	\$1,483	\$0
<i>Total amount invoiced</i>	\$4,939,712	\$4,231	\$21,138,214	\$23,277,302

*2004 figures reflect credits due from 2003 true ups

Summary of 2005 Assessments

	<u>Total Invoiced</u>	<u>Total Payments Rec'd by 6/30/05</u>	<u>Refunds for overpayment of assessment *</u>	<u>Total Available</u>
<i>ILECs</i>	\$22,085,639.00	\$22,086,053.00	(\$347.00)	\$22,085,706.00
<i>CLECs</i>	<u>1,191,633.00</u>	<u>1,021,908.54</u>	<u>(86.00)</u>	<u>1,021,822.54</u>
<i>Total</i>	<u>\$23,277,302.00</u>	<u>\$23,107,961.54</u>	<u>(\$433.00)</u>	<u>\$23,107,528.54</u>

* One ILEC opted for \$67 credit to their 2006 fees instead of refund

III. Municipality Payments

Section 11 of the METRO Act stipulates allocation of funds collected from telecommunication providers. 75% of the funds collected are disbursed to cities and villages based on the formula found in section 13 of 1951 PA 51. The remaining 25% is disbursed to townships based on their linear feet as a percentage of total linear feet reported for all townships. After calculations are made for payments to each municipality in Michigan, those municipalities that chose not to opt in – 40 in all – are removed from the calculations and their money is re-distributed to the remaining municipalities.

Payments are normally processed in late May or early June. This year, because of staffing shortages, payments were processed in early July of 2005.

Section 10(5) of PA 48 requires municipalities with populations of over 10,000 to file an annual report on the use and disposition of METRO funds. In 2005, payments were temporarily withheld from those municipalities that failed to file annual reports. As of February 24, 2006, four townships with funds totaling \$50,942, have not filed their 2004 annual reports. Two other municipalities, with funds totaling \$236,365, filed their annual reports after 10/1/05 and were paid in FY06.

Summary of Available Funds

	<u>Cities & Villages (75%)</u>	<u>Townships (25%)</u>	<u>Total</u>
2005 invoices paid by 6/30/05	\$17,330,646.40	\$5,776,882.14	\$23,107,528.54
2005 interest earned	2,166.82	722.27	2,889.09
2004 invoices paid after 10/1/04 (FY05)	1,368.55	456.18	1,824.73
FY04 carry forward	177,237.20	59,079.07	236,316.27
Other adjustments	<u>(2,189.84)</u>	<u>(729.95)</u>	<u>(2,919.79)</u>
Subtotal	\$17,509,229.13	\$5,836,409.71	\$23,345,638.84
Reductions for contracts	<u>(36,840.45)</u>	<u>(205.74)</u>	<u>(37,046.19)</u>
Total funds available for disbursement	<u>\$17,472,388.68</u>	<u>\$5,836,203.97</u>	<u>\$23,308,592.65</u>
Total payments made to municipalities	17,249,366.99	5,771,917.69	23,021,284.68
Total payments withheld (failure to file annual report)	\$223,021.69	\$64,286.28	\$287,307.97

IV. Approved Tax Credits

The METRO Act, Section 8(14), allows for a tax credit as the sole means by which providers can recover costs under this Act; and insures that the providers do not pass costs on to the end-users of this state through rates and charges for telecommunication services. These tax credits must be approved by the Michigan Public Service Commission (MPSC). [Attachment E](#) illustrates the tax credits approved by the MPSC for 2005 totals \$6,512,637,882 for ILECs and \$874,514.34 for CLECS through 9/27/05.

V. Activities Resolved/Under Review

A. Route Map/Permit Requirements

Section 6(5) of the METRO Act requires that an application for a permit under this section shall include route maps showing the location of the provider's existing and proposed facilities in the format as required by the Authority under subsection (8). Except as otherwise provided by a mandatory protective order issued by the MPSC, information included in the route maps of a provider's existing and proposed facilities that is a trade secret, proprietary, or confidential information is exempt from the Freedom of Information Act, 1976 PA 442.

Section 6(6) of the Act requires that a municipality shall notify the MPSC when it grants or denies a permit, including information regarding the date on which the application was filed and the date on which the permit was granted or denied. The MPSC shall maintain on its website a listing showing the length of time required by each municipality to grant an application during the immediately preceding 3 years.

Section 6(7) of the Act requires that within 90 days after the substantial completion of construction of new facilities in a municipality, a provider shall submit route maps showing the location of the telecommunication facilities to both the commission and the affected municipalities.

Section 6(8) of the Act requires that the MPSC shall, after input from providers and municipalities, require that the route maps required under this section be in a paper or electronic format as the MPSC may prescribe.

Current mapping requirements—The MPSC and the METRO Authority issued a joint minute action in June of 2003. The providers, in the Court of Appeals, challenged the authority of the MPSC to issue mapping requirements; and the MPSC subsequently withdrew its support of the action.

July 6, 2004, the METRO Authority conducted a survey of telecommunications providers and municipalities to determine whether there was the opportunity to resolve respective concerns regarding route maps. Comments were received from the following:

1. Providers

- Telecommunications Association of Michigan
- AT&T
- MCI
- Competitive Local Exchange Carriers

2. Municipalities

- Varnum Reddering/Schmidt/Howlett
- Neal Lehto
- Baucom, Sparks, Rolfe, et al

Survey Conclusions

1. Provider Positions

All responding providers, except MCI, hold the opinion that the issue of the contents of route maps was settled when the MPSC withdrew its support of the June 27, 2003 mapping requirements on November 25, 2003 in response to the telecommunication providers legal action. Further, the providers assert that the METRO Act does not require the route maps to be as detailed as desired by municipalities; and, finally, providers assert that the METRO Authority has no authority to dictate the contents of route maps.

2. Municipality Positions

All responding municipalities/representatives request that the METRO Authority include in the route maps the minimum requirements prescribed by the MPSC and METRO Authority June 27, 2003; and that providers need to submit route maps in the GIS rather than PDF format.

To address route map issues, the METRO Authority will establish a work group who will be charged with considering the concerns of municipalities and telecommunication providers regarding the requirements and contents of route maps per Section 6 of the METRO Act. It is anticipated that this work group will meet regularly (5-6 meetings) at neutral site(s). The meeting will be facilitated by the METRO Authority, which will provide background information, record minutes, provide meeting sites, etc. Membership of the voting group will be comprised of:

- a) 5 members representing municipality interests:
 - a. Michigan Municipal League
 - b. Michigan Township Association
 - c. City of Detroit
 - d. Township of Clinton
 - e. PROTEC

- b) 5 members representing telecommunication industry interests:
 - a. AT&T
 - b. Verizon
 - c. Telecommunication Association of Michigan (TAM)
 - d. Competitive Local Exchange Carriers Association
 - e. Great Lakes Comnet

Note: There will be:

- No voting representation from METRO Authority staff. The METRO Authority director will chair and facilitate the work group.
- No representation from MPSC. They have been invited to attend as a resource for background information, technical expertise and historical perspective.
- No voting representation from resource individuals. However, they may serve as an alternate if so designated by the member they represent in the absence of that member.

The work group's *primary mission* is to determine:

- a. What a route map consists of and level of detail required (i.e. line drawing; above, below, left, right; ID of street names; indicator of linear feet or scaled; municipal boundaries; etc.).
- b. Necessity/requirement for "as built" route maps.
- c. Any other disputed issues relating to route map requirements.
- d. Work group members may agree to compromise on issues not in conflict with PA 48 requirements (i.e. "Route maps are required for new permits since enactment of PA 48 and are not retroactive.").

It is the intent of the METRO Authority that the work group reach consensus and/or propose options to resolve route map issues by May 31, 2006 or sooner. If the proposed options/agreements are in compliance with PA 48 requirements, the METRO Authority may issue a determination by the end of July 2006, which will include agreements reached by the work group.

B. Municipality Permit Fees

Section 4(1) of the METRO Act states:

"Except as otherwise provided by this Act, after the effective date of this Act, a municipality in a metropolitan area shall not enact, maintain, or enforce an ordinance, local law, or other legal requirement applicable to telecommunications providers that is inconsistent with this act or that assesses fees or requires other consideration for access to or use of the public rights-of-way that are in addition to the fees required under this Act.

Also, Section 4.7 of the METRO Act (MPSC) unilateral permit on Pavement Cut Coordination implies that telecommunication providers do not have to pay the municipalities fees for access to public rights-of-way. Further SBC Michigan states:

“It is SBC Michigan’s position that, pursuant to Sec. 484.3103(5), SBC Michigan will never be liable to pay the \$500 one-time application fee to any municipality within the boundaries of which SBC Michigan maintained telecommunications facilities in public rights of way subject to the control of the municipality prior to the effective date of the METRO ROW Act. SBC Michigan would be responsible to pay the \$500 one-time application fee in the event SBC Michigan in the future proposed to place facilities within public rights of way within the boundaries of and controlled by a municipality in which SBC Michigan had no facilities in public rights of way as of November 1, 2002, that is, in any municipality in which SBC Michigan would be a new provider of services.

In light of the prohibition in sec. 484.3104(1) on fees in addition to the \$500 one-time application fee and the annual maintenance fees, it is SBC Michigan’s position that there are not any circumstances under which a municipality can charge a fee for SBC Michigan’s “access to or use of the public rights-of-way” after the effective date, November 1, 2002, of the METRO ROW Act.”

Many municipalities believed that they could continue to charge fees to telecommunication providers for costs other than the permit, such as street cut permits pursuant to Section 5(1) which states:

“A provider using or seeking to use public rights-of-way in a metropolitan area for its telecommunication facilities shall obtain a permit under section 15 from the municipality and pay all fees required under this act. Authorizations or permits previously obtained from a municipality under section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251, satisfy the permit requirement of this section.”

It was clear that telecommunication providers must still obtain permits from municipalities for excavation or constructing or installing facilities within a public right-of-way; and promptly repair damage and restore it to its preexisting condition. However, there was still some confusion regarding what are applicable fees that can be charged providers, if any.

The METRO Authority issued Determination #2, March 24, 2005 to clarify and issue its position and guidelines regarding this matter. (Refer to METRO Authority’s website for this and other determinations: www.michigan.gov/metro).

C. Use of Maintenance Fee Payments Guidelines

Municipalities with populations over 10,000 are required to report on the usage of the funds they receive under PA 48 of 2002 by April 30 annually. The Act states that municipalities may use funds received under the Act solely for rights-of-way related purposes. [Attachment A](#) includes the latest guidelines regarding the use of the METRO Act funds.

D. Streamlining Permitting Process

There is continued need to further improve the municipality authorization of access to and the use of public rights-of-way by providers. Many municipalities are still not adequately addressing the 45-day permitting response period. Many providers are not adequately working through municipalities, especially townships regarding their permitting requirements. Also, many providers appear not to be complying with Section 6(7) of the Act regarding the submission of route maps within 90 days of substantial completion of construction of new facilities.

The METRO Authority continues to work with municipalities and providers to clarify/determine the needs of both during the 2005 program year. The Authority continues to review the best practices of other states to determine applicability to improving Michigan's permitting process. Contact with the various associations representing municipalities and providers is also ongoing as regards to streamlining the right-of-way process; and improving the efficiency of the METRO Act in assisting economic development.

E. Municipalities With No Reported Footage

Several municipalities ([Attachment G](#)) continued to report no footage by telecommunication providers. The METRO Authority is continuing to work with these municipalities to determine whether there are provider services; and the amount of footage, if any, located in the municipality.

F. Possible New Providers

Section 8(2) of the METRO Act authorizes the METRO Authority to determine the amount of fees to be collected from telecommunication providers; and the information required to calculate those fees. Upon review of the municipality permits listed by the MPSC, and other sources, numerous providers have been identified as possibly coming under the jurisdiction of the METRO Act. As a result of our efforts in 2004, four new CLECs were identified and invoiced in 2005. A cable company was also identified but not invoiced because its aggregate investments exceeded the amount due. Some of the organizations contacted have claimed exemption from the act (i.e., "educational institution" or "no facilities"); some are still under review. Others have not responded to our communication

efforts. Upon review of the 2005 MPSC Permit List ([Attachment I](#)) several additional companies have filed applications that have not paid maintenance fees and will be contacted regarding their status.

<u>Provider</u>	<u>Location</u>	<u>Status</u>
City of Detroit PLD	Detroit	Invoiced in 2005
Detroit Edison	Southeast Michigan	Invoiced in 2005
Nextel	Southeast Michigan	Invoiced in 2005
TelCove	Southeast Michigan	Invoiced in 2005
Sprint	N/A	Invoiced in 2005
Ford Motor Company	N/A	Invoiced in 2005
Michigan C&E	Bethel Twp	Status pending
RACC Enterprises LLC	Bliss Twp	Status pending
Saginaw Valley State University	City of Auburn	Exempt *
Battle Creek	City of Battle Creek	Status pending
NextG Networks of Illinois	City of Dearborn	No response
	Village of Franklin	
Dearborn Public Schools	City of Dearborn	Exempt *
Teleport Communications Group	City of Detroit	Status pending
	City of Warren	
ACD Telecom, Inc.	City of Lansing	No response
	City of Mason	
Last Mile Technologies, LLC	City of Mt. Pleasant	Status pending
Shoreline Fiber Network Partners	City of N. Muskegon	Exempt *
	City of Norton Shores	
Whirlpool Corporation	City of St. Joseph	No response
City of Crystal Falls	Crystal Falls Twp	Exempt **
Ottawa Area ISD	Fillmore Twp	No response
Berrien Co. Area Fiber Network	Royalton Twp	Status pending
Iron River Cable	Iron River Area	Falls under PA48
ClearLinx	Bloomfield Twp	New CLEC -
	Village of Franklin	Invoice in 2006
Merit Network	Ann Arbor Twp	Status pending
Detroit Medical Center	City of Detroit	Status pending
DeWitt Public School System	City of DeWitt	Status pending
Fiber-Link	City of Portage	Status pending
Westphalia Broadband, Inc.	DeWitt Twp	Status pending
Media One Communications, LLC	Holland Twp	Status pending
	Park Twp	
Allband Communications Coop	Mitchell Twp	New ILEC
ACD.Net	Meridian Twp	Status pending
Lighthouse Broadband	Grand Ledge	Status pending
	St. Johns	

* Educational institution

** No facilities

G. State/County/Railroad Right-of-Way Issues

The METRO Authority determined, via the Michigan Department of Transportation (MDOT), that to install telecommunication facilities in a state trunk line (U.S. route, state route, interstate business connections) a business or private party must complete a form entitled “Individual Application and Permit” (Form 2205). This form is used for all routine requests for construction and/or occupying state trunk line highways by individuals and corporations for residential and commercial driveways, tree trimming, drainage, landscaping, grading, utilities, and other similar uses. These forms may be obtained from MDOT’s appropriate region/TSC office maintenance garages; and at most county road commission offices.

The Authority will continue to clarify the METRO Act’s impact, if any, on railroad and county public right-of-way concerns.

H. METRO Authority 2005 Policy/Issue Determinations

The METRO Authority made/issued the following, but not limited to, determinations to clarify certain issues of interest to municipalities and providers: (Refer to METRO Authority’s website: www.michigan.gov/metro)

- METRO Authority Annual Report Guidelines (revised September 2, 2005) regarding the report of use of funds by municipalities with populations over 10,000; and Guidelines for the Use of Right-of-Way Funds.
- [Determination No. 1](#) – Distributed Antennae Network Systems
Describes the use of existing in-the-ground cable/fiber optic lines to provided/expand wireless signals.
- [Determination No. 2](#) – Municipal Administrative Fees
Explains the applicable municipal administrative fees that can be charged to providers for access to and use of public rights-of-way.
- [Determination No. 3](#) – Applicability of One-Time \$500 Application Fee
Explains the circumstances by which a provider is subject to this fee.
- [Determination No. 4](#) – Dispute Resolutions/METRO Authority Decisions
Explains the recourses regarding disputes between municipalities and providers; and decisions of the METRO Authority.
- [Determination No. 5](#) – Public Rights-of-Way Leased/Owned Fee Payments
Clarifies the METRO Authority’s position that the maintenance fee charged/assessed providers is based on the linear feet of facilities in the public rights-of-way occupied by a provider whether leased or owned.

- [Determination No. 6](#) – MTA Optional Permits
Clarifies the situation whereby providers obtained public rights-of-way permits prior to the enactment of the METRO Act; and payment of related fees.
- [Determination No. 7](#) – Private Sector Internal Telecommunication Systems
Describes/explains the METRO Authority's position that private sector companies that have telecommunication facilities in public rights-of-way are subject to the METRO Act, even if they do not lease/provide telecommunication services to other entities.
- [Determination No. 8](#) – Municipalities Not Opted-In (December 9, 2005)
Lists the 40 municipalities not eligible to receive PA 48 funds.

I. Matching Fund Advisory

The METRO Authority issued an advisory to municipalities and their representative organizations that METRO Act funds could be used to meet the 50% match requirement to obtain federal U.S. Department of Agriculture grant funds. These grant funds were made available to communities affected by the Emerald Ash Borer outbreak.

J. METRO Authority 2004 Data Base Conversion Project

Most of METRO Authority's information resides on Excel spreadsheets. The Authority, in collaboration with the Department of Information and Technology, is in the process of converting these spreadsheets into databases for better utilization of the large masses of information collected.

One example of spreadsheets used for a variety of purposes are files which are comprised of all linear footages provided for all 1,778 Michigan municipalities by telecomm providers, including cable companies.

With the assistance of a student intern during the summer of 2005, this spreadsheet was converted into a database. After the intern's departure, current staff (a part-time departmental specialist) developed on-line queries and reports for staff usage.

Internally, these footages are currently used for two purposes: 1) the total linear footages for each provider are used to calculate their annual maintenance fee; and 2) calculation of payments to townships are based on the percentage of their linear footages as compared to the total linear footages for all townships in Michigan.

However, the Authority's plan is to further utilize this information on its web site as a searchable database for municipal officials to determine which providers have reported linear footages in their municipalities and the amounts they have

reported; and to allow entrepreneurs to determine the telecommunication infrastructure in any Michigan municipality they may wish to start/expand economic development activities.

The METRO Authority has engaged the assistance of the Michigan Department of Information Technology to convert spreadsheets into databases, such as METRO Authority payments, municipal and provider contact information, annual report information, etc. These will be used for future correspondence to municipalities and providers, for invoicing providers and processing payments to municipalities, and for legislatively required reports.

The METRO Authority plans to develop a national proto-type with the following capabilities (more applications may be added later):

- 1) Data look up/edit capabilities for all staff on contact information, footages, invoices, payments, etc.
- 2) Linear footage and contact information available on our web site for municipalities to review their personal data.
- 3) Municipal payment history.
- 4) Provider invoice history.
- 5) Calculate and print invoices.
- 6) Calculate city and village payments in-house (currently relying on MDOT).
- 7) Calculate and print municipal payment reports (payments are made on direct vouchers in MAIN).
- 8) Easier update of linear footages.
- 9) Print status report for invoice payments.
- 10) Archival information
- 11) Possible tie in's with Broadband Authority and/or PSC.
- 12) Create listing of each telecommunication provider's linear footage in every municipality/county to put on Authority's website. Currently, the vast majority of municipalities do not have this information.
- 13) Create database of counties that process right-of-way permit applications for townships.

K. METRO Authority Administrative/Operational Needs

The METRO Authority staff consists of only two staff (Director and a Secretary). Due to the numerous and complex duties and responsibilities to implement the METRO Act, there is critical need for additional staff; and a specific, detailed budget. For instance, aside from resources needed to engage the Attorney General's assistance, there are still internal information technology needs from the Michigan Department of Information Technology, including, but not limited to:

1. Databases—Currently the METRO Authority has most of its data on quite large spreadsheets. Assistance is needed in converting this information to databases that will enable the Authority to build reports, mail merges, etc.
2. Web Page—The METRO Authority needs assistance to make its web page more useful, e.g. the capability for municipalities to review how much footage a telecommunication provider has reported in their right-of-way application, etc.
3. Payment Calculation—Currently, the METRO Authority must use MDOT to make payment calculation to municipalities based on their Act 51 fund distribution system. At some point, the Authority will need the capability to do these calculations in-house.

Part of the discussions in formulating the METRO Act included the need for funding to adequately implement Act (5-6 staff and a separate budget for operating and administrative expenses). However, the current legislation does not provide for a separate budget for operating and administrative expenses. Further, compounding the lack of funding for operating and administrative expenses, the transfer of the METRO Act to the DLEG also did not provide for funds needed to adequately administer this program. Currently, all collected maintenance fees must be distributed to municipalities. The METRO Act needs to be amended to provide funds to adequately administer this legislation.

There is urgent need to amend the METRO Act via the previously proposed SB 425, or similar legislation that would:

- Change the Provider payment of their state maintenance fee from one annual payment to four quarterly annual payments of 25% of the amount owed.
- Provide that up to 3% of the annual maintenance fees collected from Telecommunication Providers can be used to fund the operational expenses of the METRO Authority.
- Provide that the METRO Authority invest maintenance fee payments and that interest earned by used to fund operating expenses and administrative costs of the Authority.

Amendment of the METRO Act would have a very minor fiscal impact on the some 1,740 eligible municipalities currently sharing collected provider maintenance fees. The legislation would provide that no more than 3% of collected fees could be used for METRO Authority operating and administrative expenses. For FY05, this would have equated to about \$600,000 to operate a \$22-\$30 million dollar annual program. Further, passage of such an amendment would favorably impact the state as it would:

- Not cost the state any GF/GP funds

- Provide the opportunity for greater collection of maintenance fees to distribute to municipalities
- Provide the opportunity to greatly enhance the state telecommunication services infrastructure by increased investments
- Provide for greater opportunities for telecommunication providers to expand services throughout the state due to standardized policies/procedures
- Provide the opportunity for greater economic development activities, emerging technologies, job creation, etc.

The passing of such legislation would provide funds for operating and administrative expenses needed to operate this program. As one of the nation's recognized leaders in the development and encouragement of telecommunications services, this proposed legislation has the support of Michigan's telecommunication providers and municipalities.

Continued failure to provide the METRO Authority adequate funds for its operating and administrative expenses has curtailed its ability to implement the METRO Act; and be of assistance to telecommunication providers and municipalities in the maintenance and/or expansion of telecommunication services throughout the state.